Town of Greenburgh Justice Court

Report of Examination

Period Covered:
January 1, 20XX - December 31, 20XX

Thomas P. DiNapoli
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Division of Local Government
and School Accountability

November 2010

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Greenburgh Justice Court. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller’s authority as set forth in Article 3 of the General Municipal Law.

This audit’s results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

Office of the State Comptroller
Division of Local Government
and School Accountability
Introduction

Background

The Town of Greenburgh (Town) is located in Westchester County and has a population of approximately 87,000 residents. The Town is governed by an elected Supervisor and a Town Board. The Town Board shares responsibility with the Town Justices for ensuring that an effective system of internal controls is in place for overseeing Justice Court operations.

The Town has three elected Justices, Doris Friedman, Sandra Forster and Arlene Gordon-Oliver, who are responsible for all moneys received and disbursed by their Court and for safeguarding Court resources. During 2009, the Justices reported approximately $1.9 million in fines and surcharges to the Office of the State Comptroller’s Justice Court Fund.

Objective

The objective of our audit was to examine the internal controls of the Town’s Justice Court (Court). Our audit addressed the following related question:

- Were internal controls over Court funds appropriately designed and operating effectively?

Scope and Methodology

During this audit, we examined the Court’s financial operations for the period January 1, 2009 to January 4, 2010.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

Comments of Town Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they have already initiated, or plan to initiate, corrective action.

The Town Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, Responding to an OSC Audit Report, which you received with the draft audit report. We encourage the Town Board to make this plan available for public review in the Town Clerk’s office.
Internal Controls

Justices must adjudicate cases brought before their Court, and account for and report all related Court financial activities. The Justices must ensure that an effective system of internal controls is in place to provide reasonable assurance that cash and other resources are properly safeguarded; financial transactions are processed in a timely manner and recorded properly; appropriate financial reports are accurate and filed in a timely manner; applicable laws, rules and regulations are observed; and that the work performed by those involved in the Court’s financial operations is monitored and reviewed routinely. Therefore, they must reconcile cash activity and report all Court transactions in a timely manner. The Town Board also must exercise sufficient oversight of the Justices to ensure that the Court is properly recording and reporting transactions, and properly accounting for moneys received.

We found significant weaknesses in the Court’s internal control system and lack of Court oversight by the Town Board. The Justices did not ensure that the Senior Bookkeeper reconciled their bail bank account balances to their individual bail book balances at any point during our audit period. The amount of differences varied widely; bank balances exceeded book balances by as much as $12,249 and were less than the book balances by as much as $5,637 in the months we reviewed. A 2004 audit conducted by the Unified Court System identified similar deficiencies, and Court officials have failed to correct them.

In addition, the Town Board failed to oversee Court operations because it has not performed an audit of the Justices’ records since 2005. Court officials did not ensure that duties were adequately segregated. A clerk controlled all aspects of payments collected by mail, and the Senior Court Clerk had administrative access rights to the Court’s computer system, which would allow her to make changes to financial data without detection. The Court’s software program did not produce audit logs that would help to mitigate this risk and detect changes to the Court’s financial data. Because of these weaknesses, errors or irregularities could occur and not be detected or corrected in a timely manner.

Accountability

A Justice is personally responsible for moneys received by the Justice Court. Thus, a Justice may be liable for money paid to the Court that was lost or stolen from his/her office, even when he/she is free from negligence or malfeasance. Therefore, when cash bail is imposed, the Justices must account for it. Bail for pending cases is posted by defendants (or possibly by others on behalf of the defendants)
generally to guarantee appearance in Court to answer charges. Consequently, it is essential that each Justice maintains a current, accurate and complete list of all bail held at any specific point in time.

The New York State Unified Court System performed an audit of the Town’s Justice Court for the period January 1, 2000 through March 31, 2003. The audit report, dated June 8, 2004, found that the Chief Clerk’s monthly reconciliation for the bail account did not always tie the reconciled bank balance to the bail book balance. The Chief Clerk was unable to reconcile one Justice’s bail account for seven of the 11 months reviewed. The Court responded to the audit with a corrective action plan that included the hiring of a Senior Bookkeeper in January 2004, who was assigned, among other duties, the reconciliation of the bail bank account balance to the book balance for each Justice.

However, hiring a Senior Bookkeeper did not correct the deficiencies cited in the above audit. In fact, the Senior Bookkeeper was unable to reconcile Justices Friedman’s and Forster’s bail bank account balances to their individual bail book balances at any point during our audit period. The amount of differences varied widely. For example, Justice Friedman’s bail bank account balance exceeded the amount of the book balance by $12,249 in January 2009 and was less than the book balance by $551 in September 2009. Justice Forster’s bail bank account balance was less than the book balance by $5,637 and $1,587 in January 2009 and July 2009, respectively.

The Senior Bookkeeper told us that he has not been able to reconcile the amounts in the bail bank accounts to the book balances because the accounts were out of balance when he began the job in 2004, and he has not been able to reconcile the accounts since. In addition, the Senior Court Clerk told us that she and Justices Friedman and Forster did not review the monthly bail account reconciliations.

Justices Friedman and Forster did not exercise proper oversight over bail moneys received because they did not ensure the Senior Bookkeeper reconciled the amounts contained in their individual bail bank accounts to the amounts of bail posted by individual defendants on a regular basis. By not maintaining a current, accurate bail listing, the Justices have failed to properly account for bail moneys.

Annual Audit

According to the Uniform Justice Court Act, Justices are required to present their records and dockets to the Town Board for audit at least once a year. The Town Board should then audit such records, or engage a certified public accountant (CPA) to do so. The Town Clerk must document in the minutes of Town Board proceedings that an audit was performed. Town Law also expressly provides that, at any time, the Town Board may require any Town officer or employee to
submit his or her books, dockets, records, receipts, etc., to the Town Board or to a CPA for examination.

Due to the poor condition of the Court’s records, the Supervising Judge of the 9th Judicial Justice Courts assigned an independent justice to address the fiscal issues within the Court in 2003. The Supervising Judge issued a final report in May 2005 that stated “a wide range of new financial and internal control procedures were implemented that led to an appropriate Court accounting system and improved accountability and efficiency of Court staff.” However, the Supervising Judge issued a follow-up report in October 2009 that indicated there were still serious deficiencies that needed to be addressed, including “a serious lack of internal controls to record and provide safeguards over bail monies collected, held for pending cases and disbursed...” Among other things, the Supervising Judge recommended that the Town Board “conduct yearly court audits, as opposed to multi-year audits.”

As of June 1, 2010, the Justices’ records and reports had not been audited since 2005. A CPA firm conducted the last audit, which was a combined audit of the fiscal years 2002, 2003, 2004 and 2005. This audit resulted in a disclaimer of opinion because of the poor condition of the Court’s accounting records.

The Town Board did not comply with Town Law because it did not examine the Court’s records or contract with a CPA to examine the Court’s records at least once a year. The Town Board’s failure to provide for an audit of the Justices’ records and reports allowed errors to occur and remain uncorrected and encouraged the continuation of poor accountability practices.

**Segregation of Duties**

An effective system of internal controls provides for the distribution of duties so that no one individual controls all phases of a transaction. Proper division of responsibility requires the work of one employee to be independently verified in the normal course of another employee’s or supervisor’s duties. Where segregating duties within the Court’s financial operations may not be practical, the Justices should exercise sufficient oversight to help ensure that the clerks properly record and report all financial transactions and properly account for all moneys.

**Payments Through the Mail** — To ensure that payments received through the mail are accounted for and safeguarded, the same person must not control all aspects of payment collection. At a minimum, the duties of collecting and recording payments must be segregated to reduce the risk of errors or irregularities occurring and not being detected.
Internal controls over receipt of payments through the mail need to be improved. The same clerk who receives, opens and logs in the payments received by mail also enters them into the Court’s computer application. With these incompatible duties, the clerk could receive and not record a payment without detection. The Senior Court Clerk explained that this clerk’s duties are not adequately segregated because she is the only clerk who does not have full time responsibilities at the Court service windows and can focus exclusively on processing mail payments. However, the Court has not implemented sufficient compensating controls over this function, such as requiring the Senior Court Clerk to verify that the clerk entered the correct amounts into the computer application. The lack of segregation of duties and absence of management or supervisory review over payments received through the mail provide opportunities for significant errors and/or irregularities to occur without being detected and corrected.

**Computer Access** — To provide for a proper segregation of duties and internal controls, a computer system should prevent users from being involved in multiple aspects of transactions; this is especially true with administrative access rights. Administrative access rights provide the ability to add new users, view and change users’ passwords and rights, and control and use all aspects of the software. A person with administrative rights should not be involved in aspects of financial transactions that provide an opportunity for manipulation or concealment of transactions. It is essential that management provide oversight over individuals with administrative access rights to ensure that Court transactions are safeguarded. One important tool for such oversight is the use of audit logs. Audit logs provide monitoring capability because they provide the identity of each person who has accessed the system, the time and date of the access, what activity occurred, and the time and date of logoff.

In addition to being able to perform all Court duties, including receiving cash, the Senior Court Clerk has administrative access rights to the Court’s computer applications. When an individual who receives cash also has administrative access to the Court’s computer application, the individual could conceal misappropriated cash received by deleting the record of the cash transaction from the computer files. The Court has not implemented any mitigating controls, such as supervisory review of the Senior Court Clerk’s transactions, to address this issue. In addition, the Court’s software system does not produce an audit log for the Justices to review, and it permits files to be deleted without logging the deletion or requiring documentation of the reason for the deletion.

We reviewed a log of all 187 charge and checkbook deletions made in the system from a backup file of the computerized data and found 23 deletions from the Court’s software system that were not reentered
during our audit period. We found that the deletions were of duplicate entries from a prior computer software migration and were proper. The lack of segregation of duties and absence of management or supervisory review over administrative access to the Court's computer applications provide opportunities for significant errors and/or irregularities to occur without being detected and corrected. The computer system's lack of ability to generate audit logs increases the risk that Court officials would not detect errors or inappropriate changes to transactions.

**Recommendations**

1. The Justices should maintain a current, accurate and complete list of all bail held at any specific point in time and ensure the total of this listing reconciles to the balances in the individual bail accounts.

2. The Town Board should comply with Town Law and examine records and reports of each Town Justice or engage a CPA firm to perform the examination.

3. The Court should segregate the duties of processing payments received by mail. If staffing levels prevent such segregation of duties, the Court should establish sufficient compensating controls.

4. The Court should assign computer system administrative access and responsibilities to someone other than the Senior Court Clerk.

5. The Justices should require that a log of deletions from the computerized system be maintained and reviewed periodically.
APPENDIX A

RESPONSE FROM TOWN OFFICIALS

The Town officials' response to this audit can be found on the following page.
September 30, 2010

Christopher Ellis, Chief Examinor
Office of the State Comptroller
33 Airport Center Drive
New Windsor, New York 12553-4725

Dear Mr. Ellis,

The Town has had the opportunity to review the Office of the State Comptroller’s Report of Examination for the Period Covered January 1, 2009 – January 4, 2010 (The Report) of the Town Court’s internal controls, policies and procedures. The Town does not disagree with the recommendations outlined within the aforementioned report. The Town will more fully address the steps it will take to implement the remainder of the report’s recommendations in the Corrective Action Plan (CAP) that it will submit to your office within ninety days of the date of the issuance of the final audit report. In fact, the Town has already begun to address the staffing, supervisory and segregation of duty issues outlined in the report by hiring a Town Court Administrator to oversee the operations of the Town Court, effective August 16, 2010.

Over the years, members of the Town Board and I have not interfered with the courts because the courts are an independent and separate branch of town government.

We have been working very closely with Judge Apotheker, Supervising Judge of the Ninth Judicial District for Town and Village Justice Courts, for a number of months and have been implementing his recommendations for improved management and procedures at the court.

Yours truly,

[Signature]
Paul Feiner
APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine whether the internal controls over Greenburgh Town Justice Court funds were appropriately designed and operating effectively. To achieve our objective and obtain valid audit evidence, we performed the following audit procedures:

- We reviewed accounting records to determine if they were complete, accurate, and up-to-date.

- We compared recorded cash receipts and disbursements with supporting documentation such as case files, records of bail transactions, and reports to the Office of the State Comptroller’s Bureau of Justice Court Fund.

- We verified that transactions as detailed on the bank statements were recorded in the Court’s records, were for legitimate Court-related purposes, and were supported by appropriate documentation.

- We reviewed bank account reconciliations.

- We reviewed and compared Court activity to Traffic Safety Law Enforcement and Disposition reports prepared for the State Department of Motor Vehicles.

- We interviewed local officials and employees.

- We obtained computerized data covering the audit period that we analyzed using computer-assisted techniques to ensure that certain operations, such as deletions from computerized records, were done for legitimate purposes.

We conducted our performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.
APPENDIX C

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DIVISION OF LOCAL GOVERNMENT AND SCHOOL ACCOUNTABILITY

Steven J. Hancox, Deputy Comptroller

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